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Speaking Justice for Trayvon: How the Trayvon Martin Case Has Affected the Community of Upcoming Lawyers

SPEAKING JUSTICE FOR TRAYVON: HOW THE TRAYVON MARTIN CASE HAS AFFECTED THE COMMUNITY OF UPCOMING LAWYERS

By: Andrea D. Smith¹

“Then they came for me—and there was no one left to speak for me.”²

Less than five months after the media frenzy surrounding the execution of Troy Davis, the death of another African-American man has called into question the promise of due process for African-American men; whether they are victims or perpetrators.³ The death of Trayvon Martin, a boy growing into manhood, mobilized law students across the country who insisted that local police conduct a proper investigation into the circumstances surrounding Martin’s death and make an arrest.⁴

Martin’s death has both reiterated the need for diversity in the legal field⁵ and made many up-and-coming lawyers realize the importance of pro bono work.⁶ As African-American law students and attorneys came to the realization that in the absence of black voices there may be no one else to speak justice for African-American victims or defendants, many began to identify personally with the slain teenager.⁷ This identification is not limited to African-Americans however, as lawyers of all ethnicities have begun to question how the legal community can effectively address the issues of racial profiling and due process raised by Martin’s death.⁸

“Here the story ends, because we have only one side—Trayvon Martin cannot tell his.”⁹

On February 26, 2012, Martin walked to a local convenience store, where he purchased a mid-evening snack.¹⁰ As Martin walked home, he talked to his girlfriend via cellular telephone, reporting that a man, later identified as George Zimmerman, was following him.¹¹ Zimmerman called the police to report a suspicious person and against the admonition

of the 911 dispatcher pursued the teen.¹² Martin’s girlfriend reported that during the course of her conversation with Martin, she overheard someone ask Martin what he was doing and in turn, Martin questioned why he was being followed.¹³ Then, the line went dead.¹⁴ While the events after the connection dropped are in dispute, we do know that when police arrived on the scene, Martin was lying dead in the rain, “unarmed, carrying a small amount of cash, a bag of Skittles and a can of iced tea.”¹⁵

“As a nation, we’ve got to address the issues of racial profiling and the valuation of black men’s lives by law enforcement”¹⁶

Studies have long demonstrated that the race and class of a victim or perpetrator affect law enforcement’s investigation of crimes.¹⁷ Race and class also determine the likelihood that the victim will seek assistance from law enforcement.¹⁸ While all adolescent and young adult males tend to have negative interactions with and opinions about the police, African-American males rank the highest in negative attitudes.¹⁹ Although rarely viewed as a vulnerable group, law enforcement’s reluctance to respond to African-American male victims in the same manner as victims in other racial groups makes them easy targets for criminals.²⁰ In some instances, seeking police assistance may actually put African-American men at risk for arrest.²¹ Consider this, Martin not only had a cellular telephone in his possession on the evening of his death, but was using it throughout his walk home.²² While we will never know why Martin did not call the police when he noticed that Zimmerman was following him, there are studies that suggest that young African-American men lack confidence that law enforcement is working

in the interest of their protection and this is a factor in whether they seek police assistance.²³

“Did you hear about the rose that grew from a crack in the concrete? Proving nature’s laws wrong it learned to walk without having feet.”²⁴

And yet, we are not without hope, blooming through what seemed to be extraordinarily difficult circumstances.²⁵ Zimmerman was arrested and charged with second-degree murder on April 11, 2012.²⁶ As the nation turns its eyes toward Florida, the wheels of justice are slowly turning.²⁷ Of course, speaking justice for Trayvon cannot mean injustice for Zimmerman.²⁸ Rather, the rights of both men must coexist and be respected in order for our system of justice to work.²⁹ While Zimmerman’s fate is unknown at the time of this article, it is clear that Martin’s case aroused a common consciousness across racial and professional lines, particularly among law students who will very soon make their own marks on America’s justice system.³⁰

(Endnotes)

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² Martin Niemoller, *First They Came*, UNITED STATES HOLOCAUST MEMORIAL MUSEUM, <http://www.ushmm.org/wlc/en/article.php?ModuleId=10007392>.

³ See *In re Davis*, 565 F.3d 810, 813 (11th Cir. 2009) (asserting Troy Davis’s actual innocence as a basis for habeas corpus relief after his conviction of the murder of a white police officer); Tierney Sneed, *Should Troy Davis’s Execution Revive the Death Penalty Debate?*, U.S. NEWS & WORLD REPORT (Sept. 22, 2011) <http://www.usnews.com/opinion/articles/2011/09/22/should-troy-davis-execution-revive-the-death-penalty-debate> (predicting that the execution of Troy Davis, after a “media storm of debate and protest” and the recantation of testimony of 77% of the prosecution’s witnesses, would make the death penalty one of the key issues in the 2012 presidential race).

⁴ See, e.g., Elie Mystal, *Hoodie Law Follow-up: More Law Students Want Justice for Trayvon Martin*, ABOVE THE LAW (Mar. 30, 2012, 5:57 PM), <http://abovethelaw.com/2012/03/hoodie-law-follow-up-more-law-students-want-justice-for-trayvon-martin/> (describing all the reports and photographs of law students across the country wearing hoodies in support of Martin and his family).

⁵ See, e.g., Eli Wald, *A Primer on Diversity, Discrimination, and Equality in the Legal Profession or Who is Responsible for Pursuing Diversity and Why*, 24 GEO. J. LEGAL ETHICS 1079 (2011) (explaining that there is a lack of diversity in the profession because of a failure to understand what “diversity” means therefore leading to failed initiatives to increase the representation of minorities in the profession); see also Paul Andrew Burnett, Comment, *Fairness, Ethical , and Historical Reasons for Diversifying the Legal Profession with Longhairs, the Creatively Facial-Haired, the Tattooed, the Well-Pierced, and Other Rock and Roll Refugees*, 71 UMKC L. REV. 127 (2002) (arguing that diversity in the profession of not only minorities but of those that have permanent and semi-permanent aspects of a persons appearance “benefits the population because life builds through diversity and because diversity promotes stability”).

⁶ See, e.g., Deborah L. Rhode, *Cultures of Commitment: Pro Bono for Lawyers and Law Students*, 67 FORDHAM L. REV. 2415 (1999) (discussing the debate concerning mandatory pro bono work and the expansion of pro bono work in legal education); see also *Call to Action for Trayvon*, NATIONAL BLACK LAW STUDENTS ASSOCIATION, www.nblsa.org/justicefortrayvon-calltoaction/ (last visited Apr. 20, 2012) (encouraging emerging legal professionals to “lead by example and teach our children how to fight for justice”).

⁷ President Barack Obama, an African-American attorney, while declining to express any viewpoint about Zimmerman’s guilt, lamented the death of Trayvon Martin, stating that the teen’s death made him think of his daughters, and if he had a son, he would look like Martin. See Laura Meckler & Arian Campo-Flores, *Obama Backs Probe of Florida Teen’s Death*, THE WALL STREET JOURNAL, at A3.

⁸ Jay Sterling Silver, *Trayvon Martin’s Killing and Probable Cause*, THE NATIONAL LAW JOURNAL, Mar. 29, 2012 (suggesting that race issue aside, the failure

of law enforcement officers to adequately question Zimmermann, or find and gather evidence, is at the very least incompetence).

⁹ Martha M. Boltz, *Trayvon Martin: Between Life and Death, A Hoodie and a Sweatshirt*, THE WASHINGTON TIMES (Mar. 28, 2012), <http://communities.washingtontimes.com/neighborhood/life-lines-where-readers-write/2012/mar/27/trayvon-martin-between-life-and-death-hoodie-and-s/>.

¹⁰ *Timeline of Events in Trayvon Martin Case*, CNN JUSTICE 1 (Apr. 20, 2012), http://articles.cnn.com/2012-04-20/justice/us_florida-zimmerman-timeline_1_gated-community-gunshot-martin-punches?_s=PM:JUSTICE [hereinafter *Timeline*]

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See Benjamin Todd Jealous, President and CEO, NAACP, Statement by the NAACP on Charges Filed Against George Zimmerman, *available at* <http://www.naacp.org/news/entry/statement-by-the-naacp-on-charges-filed-against-george-zimmerman> (noting that so many people across the nation were touched by Martin's death not only because the police department failed to protect his interests as a victim, but because he was stereotyped by his appearance).

¹⁷ See, e.g., Tracey Meares, *The Legitimacy of Police Among Young African-American Men*, 92 MARQ. L. REV. 651, 654 (2009) ("No one is surprised to learn that black men have long faced higher arrest probability than white men."); Rod Brunson, "Police Don't Like Black People": African-American Young Men's Accumulated Police Experiences, 6 CRIMINOLOGY PUB. POLICY 71, 72 (2007) (summarizing data that suggests that urban, African-American men are "disproportionately suspected and stopped by police").

¹⁸ See, e.g., Edem F. Avakame, James J. Frye, & Candace McCoy, "Did you call the police? What did they do?": An Empirical Assessment of Black's Theory of Mobilization of Law, 16 JUSTICE QUARTERLY 765, 769 (1999) ("White victims are more likely than minority victims to mobilize police, and such requests from whites are more likely than those from minorities to result in arrests.").

¹⁹ Brunson, *supra* note 17, at 74-75 (describing the issue of racial profiling and discriminatory policing as

"particularly salient for African-Americans, who have a unique, long-standing, and tenuous relationship with the police").

²⁰ *Id.* at 93 (lamenting that African-American mistrust of law enforcement most likely compromises crime control efforts in African-American communities).

²¹ *Id.* at 96 (asserting that innocence can actually increase the chances of being brutalized by law enforcement because they are more likely to question the officer's investigative techniques).

²² See *Timeline*, *supra* note 9 (describing the series of events leading to Martin's death, including his phone conversation with his girlfriend).

²³ Brunson, *supra* note 17, at 82-83 (stating that most African-American men interviewed felt that policing resources were concentrated in addressing problems like gang and drug control, and had little faith that even if police responded to requests for help, the situation would improve).

²⁴ TUPAC AMARU SHAKUR, *The Rose that Grew From Concrete*, in THE ROSE THAT GREW FROM CONCRETE 3 (1999).

²⁵ Jealous, *supra* note 16 (explaining that while the justice system is not perfect, Martin's case demonstrates that national advocacy can compel action where there is inaction).

²⁶ See *Timeline*, *supra* note 9.

²⁷ See Jealous, *supra* note 16 (noting that while Zimmerman's arrest was made more than forty days after Martin's death, his arrest indicates that the justice process has begun).

²⁸ See Miranda Leitsinger, *Tough for Zimmerman to Get a Fair Trial*, MSNBC (Apr. 23, 2012, 8:47 AM), http://usnews.msnbc.msn.com/_news/2012/04/16/11225122-tough-for-zimmerman-to-get-fair-trial-defense-attorneys-say?lite (opining that amid all the demonstrations, letter-writing campaigns, and media commentary, it is unlikely that members of the potential jury pool in Sanford have not already formed an opinion about Zimmerman's guilt).

²⁹ *Id.* (expressing concern that jurors in high profile cases must feel free to return a verdict based on the evidence presented in court, even when the overwhelming public outcry may be for the opposite outcome).

³⁰ Avakame, *supra* note 18, at 770 (recognizing that "groups of people rather than individuals are more likely to invoke the law and to prevail.").